
EXPLANATORY NOTE

(This note is not part of the Regulations)

This instrument contains only regulations made by virtue of sections 2, 4 and 53 of, and paragraphs 8 and 11 of Schedule 7 to, the Employment Act 2002, which come into force on 8th December 2002. The instrument is made before the end of the period of 6 months beginning with the coming into force of those provisions. The regulations in it are therefore exempted by section 173(5)(b) of the Social Security Administration Act 1992 from the requirement under section 172 of that Act to refer the proposals to make the regulations to the Social Security Advisory Committee and they are made without reference to the Committee.

These Regulations, made under provisions inserted into the Social Security Contributions and Benefits Act 1992 (“the 1992 Act”) by the Employment Act 2002, make provision relating to statutory paternity pay and statutory adoption pay.

Part 1 of the Regulations is introductory.

Part 2 of the Regulations relates to statutory paternity pay payable in connection with a birth: regulation 4 sets out the entitlement conditions as regards the relationship with the newborn child and the child’s mother;

regulation 5 provides for a modification of the entitlement conditions in the case of early birth;

regulation 6 specifies the period of payment;

regulation 7 sets out additional notice requirements;

regulation 8 specifies the period within which the statutory paternity pay period must occur (“the qualifying period”);

regulation 9 sets out the evidence of entitlement that is required;

regulation 10 provides for exceptional circumstances in which statutory paternity pay is payable to a person even though he is working for another employer.

Part 3 of the Regulations relates to statutory paternity pay payable in connection with an adoption.

Regulations 11 to 16 contain provisions corresponding to those of regulations 4 to 10 relating to statutory paternity pay payable in connection with a birth.

Part 4 of the Regulations contains provisions relating to both types of statutory paternity pay:

regulation 17 provides for the termination of statutory paternity pay where a person has commenced work;

regulation 18 provides for there to be no liability for payment of statutory paternity pay where there is entitlement to statutory sick pay, where the person claiming it has died, or where he has been detained in legal custody or imprisoned;

regulation 19 specifies the payments to be treated as contractual remuneration for the purposes of section 171ZG of the 1992 Act, which prevents both statutory paternity pay and contractual remuneration being payable in respect of the same period;

regulation 20 provides for liability to make payments of statutory paternity pay in cases where an employee’s contract of service is brought to an end solely or mainly for the purpose of avoiding liability for statutory paternity pay.

Part 5 of the Regulations relates to statutory adoption pay:

regulation 21 specifies the period of payment;

regulation 22 specifies how the adoption pay period is to be terminated where the adoption is disrupted;

regulation 23 sets out additional notice requirements;

regulation 24 sets out the evidence of entitlement that is required;

regulation 25 has a provision corresponding to those in regulations 10 and 16 for statutory paternity pay;

regulation 26 has a provision corresponding to that of regulation 17 for statutory paternity pay;

Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Statutory Paternity Pay and Statutory Adoption Pay (General) Regulations 2002. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

regulation 27 provides for there to be no liability to pay statutory adoption pay where there is entitlement to statutory sick pay, where the person claiming it has died, or, with some exceptions, during a period when the person entitled to statutory adoption pay is detained in legal custody or imprisoned;

regulation 28 has a provision corresponding to that of regulation 19 for statutory paternity pay;

regulation 29 provides for an earlier start to the adoption pay period where the employment terminates before the chosen adoption pay period has begun;

regulation 30 has a provision corresponding to that of regulation 20 for statutory paternity pay.

Part 6 of the Regulations contains, apart from one provision relating only to statutory adoption pay, provisions relating to both statutory paternity pay and statutory adoption pay:

regulation 31 introduces Part 6;

regulation 32 makes provision for persons who are, and are not, to be treated as employees in connection with statutory paternity pay and statutory adoption pay;

regulations 33 to 37 make provision as to what is to be treated as continuous employment;

regulation 38 provides for cases where two or more employers or two or more contracts of service are to be treated as one;

regulation 39 defines earnings, and regulation 40 sets out how normal weekly earnings are to be calculated;

regulations 41 and 42 set out how payment of statutory paternity pay and statutory adoption pay is to be made, and the time of payment;

regulation 43 provides for the Commissioners of Inland Revenue (“the Board”) to pay statutory paternity pay or statutory adoption pay where the employer fails to make payment, or becomes insolvent;

regulation 44 provides for the Board to pay statutory adoption pay where there is liability to pay it in cases involving detention in legal custody or imprisonment;

regulation 45 sets out how the Board is to make payments, and the time of payment;

regulation 46 provides for the Board to appoint a person to act on behalf of a person unable to act who is or may be entitled to statutory paternity pay or statutory adoption pay;

regulation 47 provides for a notice properly sent by post to be treated as having been given on the day on which it is posted.

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Changes and effects yet to be applied to :

- reg. 2(1) words inserted by [S.I. 2024/121 reg. 8](#)
- reg. 6-7 substituted for reg. 5A-9 by [S.I. 2024/121 reg. 9](#)
- reg. 12-13 substituted for reg. 11A-15 by [S.I. 2024/121 reg. 10](#)
- reg. 17 substituted by [S.I. 2024/121 reg. 12](#)
- reg. 22(5) omitted by [S.I. 2024/121 reg. 14](#)
- reg. 43(1) substituted by [S.I. 2024/121 reg. 15\(a\)](#)
- reg. 43(2) words inserted by [S.I. 2024/121 reg. 15\(b\)\(i\)](#)
- reg. 43(2) words substituted by [S.I. 2024/121 reg. 15\(b\)\(ii\)](#)
- reg. 44 substituted by [S.I. 2024/121 reg. 16](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 16A inserted by [S.I. 2024/121 reg. 11](#)
- reg. 18(1) words in reg. 18 renumbered as reg. 18(1) by [S.I. 2024/121 reg. 13\(a\)](#)
- reg. 18(1)(c) substituted by [S.I. 2024/121 reg. 13\(b\)](#)
- reg. 18(2) inserted by [S.I. 2024/121 reg. 13\(c\)](#)